

AMENDED IN SENATE JANUARY 15, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 560**

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**Introduced by Senator Anderson**

February 22, 2013

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An act to add Sections 6357.9, 17137, and 24311 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 560, as amended, Anderson. Disaster relief: sales and use tax: exemption: income taxes: gross income: exclusion.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Those laws provide various exemptions from those taxes.

This bill would exempt from those taxes, on and after January 1, 2015, the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased during a disaster period for use by a qualified person to be used primarily for the performance of disaster- or emergency-related work in this state, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on taxpayers measured by the amount of the taxpayer's ~~taxable~~

income for the taxable year, but exclude certain items of income from the computation of tax.

This bill would, under both laws, for taxable years beginning on and after January 1, 2015, exclude from income amounts received by a qualified ~~person~~ *taxpayer*, as defined, for the performance of disaster- or emergency-related work in this state that is performed during the disaster period, as provided.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Amendments to state sales and use taxes are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the
- 2     following:
- 3     (a) During times of storm, flood, fire, earthquake, hurricane, or
- 4     other disaster or emergency, many companies bring in resources
- 5     and personnel from other states throughout the United States on a
- 6     temporary basis to expedite the often enormous and overwhelming
- 7     task of cleaning up, restoring and repairing damaged buildings,
- 8     equipment, and property, or even deploying or building new
- 9     replacement facilities in the state.
- 10    (b) This may involve the need for out-of-state companies,
- 11    including out-of-state affiliates of companies based in the state to
- 12    bring in resources, property or personnel that previously have had

1 no connection to the state, to perform activity in the state including,  
2 but not limited to, repairing, renovating, installing, building,  
3 rendering services, or other business activities and for which  
4 personnel may be located in the state for extended periods of time  
5 to perform such activities.

6 (c) During such time of operating in the state on a temporary  
7 basis solely for purposes of helping the state recover from the  
8 disaster or emergency, these companies and individual employees  
9 should not be burdened by any requirements for income taxes as  
10 a result of such activities in the state for a temporary period.

11 (d) The state's nexus thresholds are intended for businesses in  
12 the state as part of the conduct of regular business operations and  
13 should not be directed at companies coming into the state on a  
14 temporary basis to provide help and assistance in response to a  
15 declared state disaster or emergency.

16 (e) To ensure that companies may focus on quick response to  
17 the needs of the state and its citizens during a declared state disaster  
18 or emergency it is appropriate for the Legislature to deem that such  
19 activity for a reasonable period of time during and after the disaster  
20 or emergency for repairing and restoration of the often devastating  
21 damage to property and infrastructure in the state shall not establish  
22 doing business in the state for purposes of state income taxes.

23 SEC. 2. Section 6357.9 is added to the Revenue and Taxation  
24 Code, to read:

25 6357.9. (a) On and after January 1, 2015, there are exempted  
26 from the taxes imposed by this part the gross receipts from the sale  
27 of, and the storage, use, or other consumption of, tangible personal  
28 property purchased during a disaster period for use by a qualified  
29 person to be used primarily for the performance of disaster- or  
30 emergency-related work in this state.

31 (b) For purposes of this section, all of the following shall apply:

32 (1) "Declared state disaster or emergency" means a disaster or  
33 emergency event for which the Governor has proclaimed a state  
34 of emergency or a major disaster or emergency for which the  
35 President of the United States has declared to exist in this state.

36 (2) "Disaster- or emergency-related work" means repairing,  
37 renovating, installing, building, or rendering services or other  
38 business activities that relate to infrastructure that has been  
39 damaged, impaired, or destroyed as a result of a declared state  
40 disaster or emergency.

(3) “Disaster period” means the period of time that begins no later than 10 days following the Governor’s proclamation of a state of emergency or the President’s declaration of a major disaster or emergency in this state, whichever occurs first, and that extends for a period of 60 calendar days ~~following the termination of the declared disaster or emergency as proclaimed~~ *or for any period determined by the Governor or by concurrent resolution by the Legislature pursuant to Section 8629 of the Government Code or the President of the United States, whichever occurs first* *his or her designee*.

(4) “Infrastructure” means property and equipment owned or used by communication networks, gas and electric distribution systems, water pipelines, and public roads and bridges, and related support facilities that service multiple customers or citizens, including, but not limited to, real and personal property, including buildings, offices, power lines, poles, pipes, structures, and equipment.

(5) “Local agency” means a local agency as defined in Section 8680.2 of the Government Code.

(6) “Primarily” means 50 percent or more of the time.

(7) “Qualified person” means a person, as defined in Section 6005, but excluding an individual, that meets all of the following:

(A) Prior to the commencement date of the declared state disaster or emergency, as specified in the Governor’s proclamation of a state of emergency or the President’s declaration of a major disaster or emergency in this state, was not doing business in this state as defined in Section 23101.

(B) Is doing business in this state as defined in Section 23101 after the commencement date of the declared state disaster or emergency, as specified in the Governor’s proclamation of a state of emergency or the President’s declaration of a major disaster or emergency in this state, ~~upon the request of a registered business or by a state agency or a local agency, for the purpose of performing disaster or emergency-related work.~~

(8) ~~“Registered business” means a business entity that is registered to do business in this state prior to the commencement date of the declared state disaster or emergency, as specified in the Governor’s proclamation of a state of emergency or the President’s declaration of a major disaster or emergency in this state.~~

1     ~~(9) “State agency” means a state agency as defined in Section~~  
2     ~~8680.8 of the Government Code.~~

3     (c) An exemption shall not be allowed under this section unless  
4     the purchaser furnishes the retailer with an exemption certificate,  
5     completed in accordance with any instructions or regulations as  
6     the board may prescribe, and the retailer retains the exemption  
7     certificate in its records and furnishes the exemption certificate to  
8     the board upon request. The exemption certificate shall contain  
9     the sales price of the qualified tangible personal property.

10    SEC. 3. Section 17137 is added to the Revenue and Taxation  
11    Code, to read:

12    17137. (a) For taxable years beginning on and after January  
13    1, 2015, gross income shall not include any amount received by a  
14    qualified ~~person~~ *taxpayer* for the performance of disaster- or  
15    emergency-related work in this state that is performed during the  
16    disaster period.

17    (b) For purposes of this section, all of the following shall apply:

18    (1) “Declared state disaster or emergency” means a disaster or  
19    emergency event for which the Governor has proclaimed a state  
20    of emergency or a major disaster or emergency for which the  
21    President of the United States has declared to exist in this state.

22    (2) “Disaster- or emergency-related work” means repairing,  
23    renovating, installing, building, or rendering services or other  
24    business activities that relate to infrastructure that has been  
25    damaged, impaired, or destroyed as a result of a declared state  
26    disaster or emergency.

27    (3) “Disaster period” means the period of time that begins no  
28    later than 10 days following the Governor’s proclamation of a state  
29    of emergency or the President’s declaration of a major disaster or  
30    emergency in this state, whichever occurs first, and that extends  
31    for a period of 60 calendar days ~~following the termination of the~~  
32    ~~declared disaster or emergency as proclaimed or for any period~~  
33    ~~determined by the Governor or by concurrent resolution by the~~  
34    ~~Legislature pursuant to Section 8629 of the Government Code or~~  
35    ~~the President of the United States, whichever occurs first his or~~  
36    ~~her designee.~~

37    (4) “Infrastructure” means property and equipment owned or  
38    used by communication networks, gas and electric distribution  
39    systems, water pipelines, and public roads and bridges, and related  
40    support facilities that service multiple customers or citizens,

1 including, but not limited to, real and personal property, including  
2 buildings, offices, power lines, poles, pipes, structures, and  
3 equipment.

4 (5) “Local agency” means a local agency as defined in Section  
5 8680.2 of the Government Code.

6 (6) “Qualified ~~person~~ taxpayer” means a limited partnership,  
7 limited liability partnership, and limited liability company that  
8 meets both of the following:

9 (A) Prior to the commencement date of the declared state  
10 disaster or emergency, as specified in the Governor’s proclamation  
11 of a state of emergency or the President’s declaration of a major  
12 disaster or emergency in this state, was not doing business in this  
13 state as defined in Section 23101.

14 (B) Is doing business in this state as defined in Section 23101  
15 after the commencement date of the declared state disaster or  
16 emergency, as specified in the Governor’s proclamation of a state  
17 of emergency or the President’s declaration of a major disaster or  
18 emergency in this state, ~~upon the request of a registered business~~  
19 ~~or by a state agency or a local agency, for the purpose of~~  
20 ~~performing disaster or emergency-related work.~~

21 ~~(7) “Registered business” means a business entity that is~~  
22 ~~registered to do business in this state prior to the commencement~~  
23 ~~date of the declared state disaster or emergency, as specified in~~  
24 ~~the Governor’s proclamation of a state of emergency or the~~  
25 ~~President’s declaration of a major disaster or emergency in this~~  
26 ~~state.~~

27 ~~(8) “State agency” means a state agency as defined in Section~~  
28 ~~8680.8 of the Government Code.~~

29 SEC. 4. Section 24311 is added to the Revenue and Taxation  
30 Code, to read:

31 24311. (a) For taxable years beginning on and after January  
32 1, 2015, gross income shall not include any amount received by a  
33 qualified ~~person~~ taxpayer for the performance of disaster- or  
34 emergency-related work in this state that is performed during the  
35 disaster period.

36 (b) For purposes of this section, all of the following shall apply:

37 (1) “Declared state disaster or emergency” means a disaster or  
38 emergency event for which the Governor has proclaimed a state  
39 of emergency or a major disaster or emergency for which the  
40 President of the United States has declared to exist in this state.

1 (2) “Disaster- or emergency-related work” means repairing,  
2 renovating, installing, building, or rendering services or other  
3 business activities that relate to infrastructure that has been  
4 damaged, impaired, or destroyed as a result of a declared state  
5 disaster or emergency.

6 (3) “Disaster period” means the period of time that begins no  
7 later than 10 days following the Governor’s proclamation of a state  
8 of emergency or the President’s declaration of a major disaster or  
9 emergency in this state, whichever occurs first, and that extends  
10 for a period of 60 calendar days ~~following the termination of the~~  
11 ~~declared disaster or emergency as proclaimed or for any period~~  
12 ~~determined by the Governor or by concurrent resolution by the~~  
13 ~~Legislature pursuant to Section 8629 of the Government Code or~~  
14 ~~the President of the United States, whichever occurs first~~ *his or*  
15 *her designee.*

16 (4) “Infrastructure” means property and equipment owned or  
17 used by communication networks, gas and electric distribution  
18 systems, water pipelines, and public roads and bridges, and related  
19 support facilities that service multiple customers or citizens,  
20 including, but not limited to, real and personal property, including  
21 buildings, offices, power lines, poles, pipes, structures, and  
22 equipment.

23 (5) “Local agency” means a local agency as defined in Section  
24 8680.2 of the Government Code.

25 (6) ~~“Qualified person”~~ *taxpayer* means a corporation that meets  
26 all of the following:

27 (A) Prior to the commencement date of the declared state  
28 disaster or emergency, as specified in the Governor’s proclamation  
29 of a state of emergency or the President’s declaration of a major  
30 disaster or emergency in this state, was not doing business in this  
31 state as defined in Section 23101.

32 (B) Is doing business in this state as defined in Section 23101  
33 after the commencement date of the declared state disaster or  
34 emergency, as specified in the Governor’s proclamation of a state  
35 of emergency or the President’s declaration of a major disaster or  
36 emergency in this state, ~~upon the request of a registered business~~  
37 ~~or by a state agency or a local agency, for the purpose of~~  
38 ~~performing disaster or emergency-related work.~~

39 (7) ~~“Registered business”~~ means a business entity that is  
40 registered to do business in this state prior to the commencement

~~1 date of the declared state disaster or emergency, as specified in~~  
~~2 the Governor's proclamation of a state of emergency or the~~  
~~3 President's declaration of a major disaster or emergency in this~~  
~~4 state.~~

~~5 (8) "State agency" means a state agency as defined in Section~~  
~~6 8680.8 of the Government Code.~~

7 SEC. 5. Notwithstanding Section 2230 of the Revenue and  
8 Taxation Code, no appropriation is made by this act and the state  
9 shall not reimburse any local agency for any sales and use tax  
10 revenues lost by it under this act.

11 SEC. 6. This act provides for a tax levy within the meaning of  
12 Article IV of the Constitution and shall go into immediate effect.